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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte WILLIAM KRESS BODIN, MICHAEL JOHN BURKHART,
DANIEL G. EISENHAUER, DANIEL MARK SCHUMACHER, and
THOMAS J. WATSON

Appeal 2008-004528
Application 10/756,158¹
Technology Center 2100

Decided: March 17, 2010

Before JOSEPH L. DIXON, JEAN R. HOMERE, and THU A. DANG,
Administrative Patent Judges.

HOMERE, *Administrative Patent Judge.*

DECISION ON APPEAL

¹ Filed on January 13, 2004. The real party in interest is International Business Machines Corp. (Br. 1.)

I. STATEMENT OF THE CASE

Appellants appeal under 35 U.S.C. § 134(a) (2002) from the Examiner's final rejection of claims 1 through 39. (Br. 2.) We have jurisdiction under 35 U.S.C. § 6(b) (2008).

We affirm.

Appellants' Invention

Appellants invented a method, system, and computer program product for delivering presentation content to user participants according to a wide variety of participant interest, company, group, or department membership, technical knowledge, and security authorization. (Spec. 1, ll. 16-17; spec. 44, ll. 25-29.) According to Appellants, the claimed invention improves multimedia presentations by creating a presentation document that includes content-specific presentation grammar and, further, a structured document containing structural elements (e.g., pages, paragraphs, cells, titles, and the like) marked with structural identifiers. (*Id.* at 2, ll. 4-8.)

Illustrative Claim

Independent claim 1 further illustrates the invention as follows:

1. A method for differential dynamic content delivery, the method comprising:
 - providing a session document for a presentation, wherein the session document includes a session grammar and a session structured document;
 - receiving a prerecorded presentation control instruction;
 - selecting from the session structured document a classified structural element in dependence upon the prerecorded presentation control instruction and in dependence upon user classifications of a user participant in the presentation; and
 - presenting the selected structural element to the user.

Prior Art Relied Upon

The Examiner relies on the following prior art as evidence of unpatentability:

Bryan 6,658,414 B2 Dec. 2, 2003

Robert Capra, et al., *WebContext: Remote Access to Shared Context*
15 Assoc. Computing Mach. Int'l Conf. Proc. Workshop on Perceptive User
Interfaces 1, 1-9 (2001) (hereinafter "Capra").

Rejection on Appeal²

The Examiner rejects the claims on appeal as follows:

Claims 1 through 39 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over the combination of Bryan and Capra.

Appellants' Contentions

Appellants contend that Bryan's disclosure of a session database that stores information pertaining to a voice portal accessed by a user does not teach "providing a session document for a presentation, wherein the session document includes a session grammar and a session structured document," as recited in independent claim 1. (Br. 9-11.) Further, Appellants argue that Capra's disclosure of a system that allows users to browse and query web pages using a voice user interface does not teach the session document, as claimed. (*Id.* at 11-14.) Additionally, Appellants allege that Bryan's disclosure of creating and providing access to user-defined voice portals, whereby a user can search a voice portal utilizing audio macro, does not teach the "receiving," "selecting," and "presenting" method steps, as

² The Examiner withdrew the 35 U.S.C. § 101 rejection of claims 1 through 26. (Ans. 2-3, 9.)

claimed. (*Id.* at 14-19.) Finally, Appellants contend that there is insufficient rationale for the proffered combination. (*Id.* at 21-24.)

Examiner's Findings and Conclusions

The Examiner finds that Bryan's disclosure was not relied upon to teach "providing a session document for a presentation, wherein the session document includes a session grammar and a session structured document," as recited in independent claim 1. (Ans. 10-11.) The Examiner finds that Appellants' claimed "session grammar" may be broadly, but reasonably interpreted as grammar for use by voice applications, from which presentation and session grammar are derived. (*Id.* at 11-12.) Therefore, the Examiner finds that Capra's disclosure of deriving session grammar, or voice application grammar, from the content of an XML document, teaches the disputed limitation as set forth above. (*Id.* at 12.) Further, the Examiner finds that Bryan's disclosure of creating a personalized voice portal, identifying a user before allowing the user to select data sources and keywords of interest, associating audio macro with the selected data sources or keywords of interest, and retrieving the corresponding information, teaches the "receiving," "selecting," and "presenting" method steps, as claimed. (*Id.* at 13-14.) Finally, the Examiner finds that there is sufficient rationale for the proffered combination. (*Id.* at 15-16.)

II. ISSUE

Have Appellants shown that the Examiner erred in concluding that the combination of Bryan and Capra renders independent claim 1 unpatentable? In particular, the issue turns on whether there is sufficient rationale for the proffered combination and whether the references teach:

(a) “providing a session document for a presentation, wherein the session document includes a session grammar and a session structured document,” as recited in independent claim 1;

(b) “receiving a prerecorded presentation control instruction,” as recited in independent claim 1;

(c) “selecting from the session structured document a classified structural element in dependence upon the prerecorded presentation control instruction and in dependence upon user classification of a user participant in the presentation,” as recited in independent claim 1;

(d) “presenting the selected structural element to the user,” as recited in independent claim 1.

III. FINDINGS OF FACT

The following Findings of Fact (“FF”) are shown by a preponderance of the evidence.

Bryan

1. Bryan generally relates to voice portals and, in particular, to “generating and providing efficient access to end-user-definable voice portals.” (Col. 1, ll. 8-12.) “The resulting voice portal provides a common yet customized presentation to listeners.” (Col. 5, ll. 33-34.) In particular, Bryan’s Figure 1 depicts “generating and providing access to unique per-user voice portals in a multi-user environment,” whereby a user accesses his or her voice portal via a session database (106). (Col. 6, l. 67 - col. 7, l. 2; col. 9, ll. 9-10.)

2. Bryan’s Figure 2 depicts “a flow chart illustrating the overall process . . . for generating and providing access to user-definable voice

portals.” (Col. 9, ll. 22-25.) “In step ST1, when a user desires to create a voice portal, . . . the topic radio engine (104) assigns the user a unique identifier.” (*Id.* at ll. 26-29.) “The identifier may be any suitable identifier for uniquely identifying the user.” (*Id.* at ll. 31-32.) In step ST2, once the identifier has been assigned to the user, a template database (108) “prompts the user for data sources, key words for searching the data sources, time intervals of interest for the searches, and vocabulary words or grammar associated with the information.” (*Id.* at ll. 40-46.) “This step allows the user to select not only the data sources that are of interest to the user, but also a word or phrase (the audio macro) that is easy for the user to remember in order to access the data sources.” (*Id.* at ll. 46-49.) In particular, Bryan discloses that “[a]udio macros are the words the listener assigns to access either a specific source or piece of information or multiple sources or pieces of information with due regard to the associated reference source, full-text search, and temporal information.” (Col. 5, ll. 47-51.)

3. Referring again to Bryan’s Figure 2, at step ST5, once the search results have been cached or stored in a database, the user can access the unique voice portal via a user interface device, such as a telephone, a personal digital assistant (“PDA”), a personal computer, or any other form of user interface device. (Col. 11, ll. 32-38.) “The user may utilize the vocabulary word or vocabulary words defined by that user to access the user’s data sources. This greatly facilitates an individual’s ability to access information.” (*Id.* at ll. 38-41.)

Capra

4. Capra generally relates to building and remotely accessing shared context between a user and a computer. (1: col. 1, ll. 1-3.) Capra

discloses a special interest in the portability and accessibility of shared context, noting that “[s]hared context needs to be accessible from different environments . . .”. (*Id.* at col. 2, ll. 2-7.) In particular, Capra discloses a WebContext architecture that “allows a user to browse web pages on their personal computer and then make queries about information viewed on those web pages using a voice user interface.” (*Id.* at col. 2, ll. 15-17.)

5. Capra discloses building context models by extracting information out of archived hypertext mark-up language (“HTML”) pages. (5: col. 2, ll. 45-49.) “For each page, [an] extractor produces a counterpart [extensible markup language] XML document that represents context indicators and information pieces found on the page.” (*Id.* at ll. 51-54.) Further, Capra discloses that:

[i]nformation pieces are things like phone numbers, addresses, and dates that the extractor has a module to identify and extract. Context indicators are items on the page that help identify it and related pages. The title of the page, words that appear in links or in bold type, and headings can all be used as context indicators.
(6: col. 1, ll. 8-13.)

6. Capra discloses using information about how recently a page has been accessed. (6: col. 2, ll. 47-49.) “For example, a user might preface a query with a time frame such as ‘web pages seen in the past week.’ The system could then dynamically adjust the grammar to include only the terms relevant to that time frame.” (*Id.* at ll. 49-53.)

IV. PRINCIPLES OF LAW

Claim Construction

“[T]he words of a claim ‘are generally given their ordinary and customary meaning.’” *Phillips v. AWH Corp.*, 415 F.3d 1303, 1312 (Fed. Cir. 2005) (en banc) (citations omitted). “[T]he ordinary and customary meaning of a claim term is the meaning that the term would have to a person of ordinary skill in the art in question at the time of the invention, i.e., as of the effective filing date of the patent application.” *Id.* at 1313.

“[T]he PTO gives claims their ‘broadest reasonable interpretation.’” *In re Bigio*, 381 F.3d 1320, 1324 (Fed. Cir. 2004) (quoting *In re Hyatt*, 211 F.3d 1367, 1372 (Fed. Cir. 2000)). “Moreover, limitations are not to be read into the claims from the specification.” *In re Van Geuns*, 988 F.2d 1181, 1184 (Fed. Cir. 1993) (citing *In re Zletz*, 893 F.2d 319, 321 (Fed. Cir. 1989)). Our reviewing court has repeatedly warned against confining the claims to specific embodiments described in the specification. *Phillips v. AWH Corp.*, 415 F.3d at 1323.

Obviousness

“On appeal to the Board, an applicant can overcome a rejection [under § 103] by showing insufficient evidence of *prima facie* obviousness or by rebutting the *prima facie* case with evidence of secondary indicia of nonobviousness.” *In re Rouffet*, 149 F.3d 1350, 1355 (Fed. Cir. 1998) (citation omitted).

Section 103 forbids issuance of a patent when “the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains.”

KSR Int'l Co. v. Teleflex Inc., 550 U.S. 398, 406 (2007).

In *KSR*, the Supreme Court emphasized “the need for caution in granting a patent based on the combination of elements found in the prior art,” and discussed circumstances in which a patent might be determined to be obvious. *Id.* at 415 (citing *Graham v. John Deere Co.*, 383 U.S. 1, 12 (1966)). The Court reaffirmed principles based on its precedent that “[t]he combination of familiar elements according to known methods is likely to be obvious when it does no more than yield predictable results.” *Id.* at 416. The operative question in this “functional approach” is thus “whether the improvement is more than the predictable use of prior art elements according to their established functions.” *Id.* at 415, 417.

V. ANALYSIS

Claim 1

Independent claim 1 recites, in relevant part:

1) providing a session document for a presentation, wherein the session document includes a session grammar and a session structured document; 2) receiving a prerecorded presentation control instruction; 3) selecting from the session structured document a classified structural element in dependence upon the prerecorded presentation control instruction and in dependence upon user classification of a user participant in the presentation; and 4) presenting the selected structural element to the user.

We first consider the scope and meaning of the term “session grammar,” which must be given the broadest reasonable interpretation consistent with Appellants’ disclosure, as explained in *In re Morris*, 127 F.3d 1048 (Fed. Cir. 1997):

[T]he PTO applies to the verbiage of the proposed claims the broadest reasonable meaning of the words in their ordinary usage as they would be understood by one of ordinary skill in the art, taking into account whatever enlightenment by way of definitions or otherwise that may be afforded by the written description contained in the applicant's specification.

Id. at 1054. *See also In re Zletz*, 893 F.2d at 321 (stating that “claims must be interpreted as broadly as their terms reasonably allow.”). Appellants’ Specification states the following:

[A] session document is a data structure that includes session grammar derived from presentation grammar in a presentation document and a session structured document derived from a structured document in a presentation document.

(Spec. 31, ll. 19-21.) Additionally, Appellants’ Specification states that:

presentation grammar is a data structure that includes a set of key phrases used to identify presentation action identifiers and optional parameters for use in formulating presentation control instructions relevant to structural elements of a content type.

(Spec. 9, ll. 18-21.)

Our reviewing court further states, “the ‘ordinary meaning’ of a claim term is its meaning to the ordinary artisan after reading the entire patent.”

Phillips v. AWH Corp., 415 F.3d at 1321.

Upon reviewing Appellants’ Specification, we find that the claim term “session grammar” may be broadly, but reasonably construed as grammar derived from a presentation, which includes a set of key phrases utilized to identify markers and parameters relevant to specific presentation content.

As detailed in the Findings of Fact section above, Capra discloses sharing content between a user and a computer, whereby the user can browse web pages on their personal computer and make queries about information

viewed on those web pages using a voice user interface. (FF 4.) In particular, Capra discloses extracting information from archived HTML pages in order to produce an XML document which contains information pieces and context indicators. (FF 5.) Capra discloses that context indicators are items on the page that help identify specific content and related pages (e.g., titles, headings, etc.) (*Id.*) Further, Capra discloses that a user identifies specific content by querying for terms relevant to a particular time frame. (FF 6.)

We find that Capra's disclosure teaches utilizing search criteria to derive content from one or more HTML documents in order to create a corresponding XML document and context indicators that identify specific content and corresponding pages. Therefore, consistent with the definition above, Capra's context indicators amount to a set of key phrases utilized to identify specific content and corresponding pages. Further, we find that an ordinarily skilled artisan would readily appreciate utilizing Capra's disclosure to provide an HTML presentation document, whereby the HTML presentation document includes content-specific presentation grammar and, would further, enable a participant in the presentation to create an XML document and context indicators that identify specific content and corresponding pages. Thus, we find that Capra's disclosure teaches "providing a session document for a presentation, wherein the session document includes a session grammar and a session structured document," as recited in independent claim 1.

Next, Bryan discloses generating and providing access to a user voice portal in a multi-user environment, whereby the user voice portal provides a customized presentation to a potential user. (FF 1.) In particular, Bryan

discloses identifying a potential user via a unique identifier. (FF 2.) Further, the potential user selects applicable data sources, key words of interest, time intervals, and a particular word or phrase that allows a user to access a specific source or piece of information in regards to the selected data sources and key words of interest. (*Id.*) Additionally, Bryan discloses that a potential user can access the customized voice portal via a personal computer, whereby the potential user utilizes a defined word or phrase in order to access a specified data source and corresponding information. (FF 3.)

We find that Bryan's disclosure teaches that a participant speaks a particular word or phrase ("spoken command") in order to access data sources and keywords of interests, whereby the participant's access depends upon the participant's unique identification. In particular, we find that an ordinarily skilled artisan would appreciate utilizing Bryan's disclosure of spoken commands in order to select, access, and present specific content during a presentation based on a participant's unique identification.

In summary, we find that Capra's disclosure of providing an XML document, in conjunction with Bryan's disclosure of utilizing spoken commands to select, access, and present specific presentation content based on a participant's unique identification, teaches receiving a presentation control instruction, selecting and accessing specific presentation content from an XML document based on a participant's unique identification, and presenting the selected presentation content to the participant. Thus, we find that combined disclosures of Bryan and Capra teach: "receiving a prerecorded presentation control instruction;" "selecting from the session structured document a classified structural element in dependence upon the

prerecorded presentation control instruction and in dependence upon user classification of a user participant in the presentation;” and “presenting the selected structural element to the user,” as recited in independent claim 1.

Rationale to Combine

The Supreme Court instructs that “[o]ften, it will be necessary for a court to look to interrelated teachings of multiple patents; . . . and the background knowledge possessed by a person having ordinary skill in the art, all in order to determine whether there was an apparent reason for combining the known elements in a the fashion claimed by the patent at issue.” *KSR*, 550 U.S. at 418. Upon reviewing the record before us, we find more than adequate suggestion for the proposed modification in the prior art. We find that an ordinarily skilled artisan in data processing art at the time of invention would have used Capra’s disclosure of providing an HTML presentation document, which includes an XML document and context indicators that identify specific content and corresponding pages, in conjunction with Bryan’s disclosure of utilizing spoken commands to select, access, and present specific presentation content, in order to increase the portability and accessibility of shared content during a presentation. (FF 5; *see also* Ans. 15-16.)

Additionally, as set forth above, Capra’s disclosure teaches providing an HTML presentation document, whereby the HTML presentation document includes content-specific presentation grammar and, further, enables a participant in the presentation to create an XML document and context indicators that identify specific content and related pages. *See disc. supra.* at 9-10. Bryan’s disclosure complements the disclosure of Capra by teaching that a participant utilizes spoken commands in order to select,

access, and present specific presentation content based on a participant's unique identification. *See id.* We find that the combined disclosures of Bryan and Capra teach prior art elements that perform their ordinary functions to predictably result in delivering differential dynamic content during multimedia presentations. *See KSR*, 550 U.S. at 418-19. Thus, Appellants' argument that insufficient rationale exists to justify the proffered combination is unavailing. It follows that Appellants have not shown that the Examiner erred in concluding that the combination of Bryan and Capra renders independent claim 1 unpatentable.

Claims 14 and 27

Appellants do not provide separate arguments for patentability with respect to independent claims 14 and 27. Therefore, we select independent claim 1 as representative of the cited claims. Consequently, Appellants have not shown error in the Examiner's rejection of independent claims 14 and 27 for the reasons set forth in our discussion of independent claim 1. *See* 37 C.F.R. § 41.37(c)(1)(vii) (2008).

Claims 2 through 13, 15 through 26, and 28 through 39

We note that Appellants fail to set forth any substantive arguments, but rather make a general allegation that the proffered combination does not teach the language of dependent claims 2 through 13, 15 through 26, and 28 through 39. (App. Br. 20-21.) Appellants are reminded that a statement that merely points out what the claim recites will not be considered as an argument for separate patentability of a claim. 37 C.F.R. § 41.37(c)(1)(vii). Appellants are further reminded that a general allegation that the claim

defines a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references does not constitute a persuasive response. 37 C.F.R. § 1.111(b). Therefore, Appellants' arguments are unpersuasive. It follows that Appellants have not shown that the Examiner erred in concluding that the combination of Bryan and Capra renders dependent claims 2 through 13, 15 through 26, and 28 through 39 unpatentable.

VI. CONCLUSION OF LAW

Appellants have not shown that the Examiner erred in rejecting claims 1 through 39 as being unpatentable under 35 U.S.C. § 103(a).

VII. DECISION

We affirm the Examiner's decision to reject claims 1 through 39.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv) (2009).

AFFIRMED

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